

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

PATRICIA MONTANINO, NIEL MONTANINO
a/k/a ANIELLO MONTANINO,

Chapter 7

Case No. 8-15-70986-las

Debtors.

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CHARLES R. MODICA, as Executor of the Estate of
LOUIS J. MODICA,

Plaintiff,

Adv. Pro. No. 15-08186-las

-against-

PATRICIA MONTANINO and NIEL MONTANINO
a/k/a ANIELLO MONTANINO,

Defendants.
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**STIPULATION AND
ORDER IN
SETTLEMENT OF
OF ADVERSARY
PROCEEDING**

WHEREAS, on June 4, 2015, Plaintiff, Charles R. Modica, as Executor of the Estate of Louis J. Modica by his attorney, David Sutton, Esq., timely filed Adversary Proceeding No. 15-08186 (the "Adversary Proceeding"), against the above-captioned Debtors; and

WHEREAS, the Adversary Proceeding Summons and Complaint sought, pursuant to Section 523 of Title 11 of the United States Code, as amended, (the "Bankruptcy Code"), the nondischargeability of Plaintiff's claim in the amount of \$203,691.34 (the "Claim"); and

WHEREAS, by Order dated August 20, 2015 the Defendants' Jason and Nicholas Montanino were removed from this action; and

WHEREAS, The parties now wish to resolve, compromise, and finally settle the above-mentioned dispute in order to avoid the cost, burdens, and uncertainties of litigation; and

WHEREAS, Defendants have been duly informed and advised by counsel and fully understands the terms and conditions of the settlement agreement, and

WHEREAS, Defendants understand that they have no legal obligation to enter into this agreement; and

WHEREAS, The parties request that the Court approve the settlement agreement as set forth below; and

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned attorneys for Plaintiff and Defendants as follows:

1. The parties agree that the sum of \$203,691.34, plus interest from September 16, 2014 owed to Plaintiff by Patricia Montanino, is stipulated to be nondischargeable pursuant to 11 U.S.C. §523(a), as against the Defendant/Debtor, Patricia Montanino.

2. The parties agree that the debt, if any, of Debtor/Defendant Niel Montanino is discharged pursuant to 11 USC 727.

3. The parties consent to the Resettlement of the Judgment After Trial signed by the Honorable Ralph T. Gazzillo (Ret.), on September 16, 2014, and entered with the Clerk of the County of Suffolk on October 17, 2014 in connection with the underlying action in the Supreme Court of the State of New York, County of Suffolk, Index No. 9694/2009, entitled *Louis J. Modica v. Patricia Montanino, Niel Montanino a/k/a Aniello Montanino, Jason Montanino, and Nicholas Montanino*.

4. The parties agree that it shall not be a violation of the stay imposed by this Court for Plaintiff to undertake the steps necessary to resettle and/or amend the September 16, 2014 Judgment After Trial in connection with the underlying action in the Supreme Court of the State of New York, County of Suffolk, Index No. 9694/2009, entitled *Louis J. Modica v. Patricia Montanino, Niel Montanino a/k/a Aniello Montanino, Jason Montanino, and Nicholas Montanino*, including, but not limited to filing a Motion to Resettle the Judgment, and the filing and docketing of said resettled judgment with the Clerk of the County of Suffolk, and any subsequent filing(s) thereafter necessary to effectuate the terms and conditions of the resettled judgment.

5. The parties agree that the remaining causes of action shall be withdrawn in satisfaction.

WHEREFORE, the parties pray this Honorable Court for an Order approving the instant Stipulation and closing the adversary matter.

Yours, etc.,

Dated: Lindenhurst, NY

July 14, 2017

By: /s/ Richard F. Artura

PHILLIPS, ARTURA, & COX, ESQS.

Attorney for Defendants

165 South Wellwood Ave,

Lindenhurst, NY 11757

Tel: 631-226-2100

Fax: 631-226-2160

Dated: July 14, 2017

By:

David J. Sutton, Esq.

Attorney for Plaintiff

65 Hilton Avenue

Garden City, NY 11530

(516) 294-8797

Dated: July 17, 2017

By:

Patricea Montanino

Debtor

Dated: July 14, 2017

By:

Niel Montanino

Debtor

Dated: 12/1/17

By:

Charles Modica, as Executor of the

Estate of Louis J. Modica

Plaintiff